

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

SDC FINANCIAL, LLC and)
SMILEDIRECTCLUB, LLC,)
Plaintiffs,) Civil Action No. 3:19-cv-0525
v.) Chief Aleta A. Trauger
MARTIN BREMER, SMILE STORE,)
LLC, SMILE STORE SUPPORT)
SERVICES, LLC, and MH, D.M.D. OF)
TENNESSEE, PLLC,)
Defendants.)

**DEFENDANTS' MOTION TO DISMISS COUNTS III AND V-X
OF PLAINTIFFS' COMPLAINT**

Defendants Martin Bremer, Smile Store, LLC (“Smile Store”), Smile Store Support Services, LLC (“Smile Support”) and MH, D.M.D. of Tennessee, PLLC (collectively, “Defendants”), by and through their undersigned counsel, and pursuant to Federal Rule of Civil Procedure 12(b)(6), move to dismiss: (1) Count III as Plaintiffs have failed to sufficiently allege that their mark is famous as required under Tenn. Code Ann. § 47-25-513; (2) Plaintiffs’ claims for trade secret misappropriation in Counts V and VI fail to state claim because a person’s remembered information and relationships are not protected information; (3) Plaintiffs’ claims for procurement/inducement of breach of contract (Counts VII and VIII), intentional interference with existing/prospective business relationships (Count IX), and unjust enrichment (Count X) are preempted by the Tennessee Uniform Trade Secret Act; (4) Plaintiffs’ procurement of breach of contract and intentional interference with existing business relationship claims fail to state a claim

and are contradicted by Plaintiffs' own allegations; and (5) Plaintiffs' claims for unjust enrichment (Count X) fail as a matter of law because Plaintiffs did not willingly confer any benefits to Defendants. Finally, Counts III and V-X should be dismissed pursuant to Fed. R. Civ. P. 12(b)(7) and 19 for Plaintiffs' failure to join their former member, Align Technology, Inc., as an indispensable party.

Defendants also submit their Memorandum Law in Support of this Motion.

Date: August 1, 2019

/s/ Paige W. Mills

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send a notice of electronic filing to the following:

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